

APPENDIX III



Wednesday, January 28, 2004

To: American Type Culture Collection
Attn. Patent Depository
10801 University Blvd.
Manassas, VA 22010-2209
(703-365-2700)

Declaration

Seeds for Patent Deposit and Storage HA3518 - Hazera Genetics Ltd.

Package content - 2500 Tomato seeds –
(in 100 labeled packets of 25 seeds each = total of 7.5 gram).

Proforma # HG280104

Kind of seeds - Lycopersicon esculentum

Variety - Tomato hybrid seeds designated HA3518

Origin of seeds Israel

The Use of seeds - For patent deposit purposes-to be kept in storage

Sincerely:

Dr. Shoshan haran


Scientific and Business Manager
Hazera Genetics
Brurim MP Shikmim
Israel 79837

More than **60** Years of Innovation





Wednesday, January 28, 2004

To: American Type Culture Collection
Attn: Patent Depository
10801 University Blvd.
Manassas, VA 22010-2209
(703-365-2700)

Attn:
Marie Harris
ATCC Patent Department

Re: Seeds for deposit for patent purpose - Tomato Hybrid HA3518
Hazera Genetics Ltd.

Dear Marie Harris,

Please find enclosed 2500 tomato seeds of Lycopersicon esculentum for patent deposit purposes - to be kept in storage.

Variety - Tomato hybrid seeds designated HA3518.
Company - Hazera Genetics Ltd.

Please also find attached:

1. The Budapest Treaty Deposit Form
2. Declaration accompanying the seeds
3. A Phyto-Sanitary form # IL 115238-04
4. The sum of 2,500\$ was transferred via the First International Bank of Israel to Account Number 003933990352, ABA # 052001633, American Type Culture Collection, c/o Bank of America, N.A., Baltimore, MD. Federal ID #53-0196548

Please confirm receipt of the seeds to me at: Fax: 972-8-8600560 or E-mail: shoshan@hazera.com

Sincerely,

Dr. Shoshan Haran
Scientific and Business Manager
Hazera Genetics
Brurim MP Shikmim, Israel 79837

More than **60** Years of Innovation

Hazera Genetics Ltd. Headquarters,
M.P. Shikmim 79837 Israel, Tel+972-8-8608850, FAX:+972-8-8602442, Email: HAG@hazera.com, WWW.hazera.co.il



ATCC

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1/13 - 1/13 2003 -

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

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BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Hazera Genetics Ltd.
Attn: Dr. Eyal Yardi
R&D Division
Mivhor, M.P. Lachish Darom
79354 Israel

Deposited on Behalf of: Hazera Genetics Ltd.

Identification Reference by Depositor:

Patent Deposit Designation

Lycopersicon esculentum: HA 3518

PTA-5796

The seeds were accompanied by: a scientific description a proposed taxonomic description indicated above. The seeds were received February 5, 2004 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested February 17, 2004. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris, Patent Specialist, ATCC Patent Depository

Date: February 27, 2004

cc: Dr. Hedva Schickler

Ref: Docket or Case No.: HZR/001 PCT



BUDAPEST TREATY DEPOSIT FORM (BPM)

American Type Culture Collection

P.O. Box 1549
Manassas, VA 20108

TO DEPOSIT OR TO CONVERT A DEPOSIT TO MEET THE REQUIREMENTS OF THE BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF A PATENT PROCEDURE

ALL QUESTIONS MUST BE COMPLETED IN ENGLISH. PLEASE USE ONE FORM FOR EACH STRAIN DEPOSITED.

1. Name of deposit: Please mark the appropriate box and provide the information requested for the material:

- Microorganism - the complete scientific name including genus and species plus the source of the material
- Virus - the name, whether plant or animal, and source including geographic location
- Cell line - the species and tissue of origin, geographical source of isolation, and any known associated hazards (HIV, EBV, etc.)
- Genetic material - the name of organism from which vector, clone or library is derived, the source of the DNA insert identified by species (e.g., human, mouse) or scientific name, the name of gene, and the identity of the host organism
- Consortia or mixed culture - the identity of each component of the mixture
- Seeds, embryos, insect eggs, etc. - the common name, the scientific name of the source of the deposit, and geographical source

Information: TOMATO (*Lycopersicon esculentum*) Israel

2. Strain designation* (i.e., number, symbols, etc): HA.3518

*The strain designation must correspond with the vial labels.

3. Is this an original deposit under the Budapest Treaty? Yes No

4. Is this a request for a conversion of a deposit already at the ATCC to meet the requirements of the Budapest Treaty?
 Yes No

If yes, please indicate ATCC designation:

5. Is this deposit a mixture of microorganisms or cells? Yes No
If yes, please describe:

Provide details necessary to cultivate, test for viability and store the deposit. If a mixture, provide description of components and a method to check for presence. If a plasmid, provide name of host and antibiotic resistance. Tomato hybrid for bush growth without staking. Seed storage 15 °C humidity 30%

7. Provide sufficient description so that ATCC may confirm deposit properties (e.g., Gram negative rod).

a. If deposit is a cell culture, is it being cultured in the presence of antibiotics? Yes No
If yes, please list the antibiotics:

b. If deposit is a hybridoma, what is the isotype of the antibody produced?

8. Safety: Is this strain hazardous to humans? animals? plants?

If yes, what is the recommended biosafety level for working with this strain?

(Refer to *Biosafety in Microbiological and Biomedical Laboratories*, 4th ed. HHS Publication No. (CDC) 93-8395. U.S. Department of Health and Human Services, Centers for Disease Control, Washington, DC: U.S. Government Printing Office; 1999. The entire text is available online at www.cdc.gov/biosafety/bmbl4/bmbl4toc.htm.)

9. Regulatory Compliance:

- a. Was the material derived from a human? Yes No
If yes, was an IRB-approved consent form (human subjects) obtained? Yes No
- b. Was this material obtained from wildlife? Yes No
If yes, please indicate genus and species and whether wild or captive bred:
- c. Is work performed at your facility with exotic viruses affecting livestock and avian species? Yes No

d. Identify any reagents of animal origin used to cultivate this organism/cell line (serum, growth factors, trypsin, etc.) and manufacturer, if known:

10. Availability:

Prior to issuance of a U.S. Patent, ATCC will only make a culture available as instructed by the depositor or relevant patent office. Samples must be provided to a specific investigator if a pertinent Patent Office under the Budapest Treaty instructs ATCC to do so. The following questions **must** be answered:

a. As of date of deposit or conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to anyone who requests a culture? If yes, there are no restrictions on distribution. Answering no will ensure the deposit is not available until the patent has issued. Yes No

b. As of the date of deposit or conversion to meet the requirements of the Budapest Treaty, do you wish the deposit to be made available to requesters that satisfy Patent Offices in countries not signatory to the Budapest Treaty? Yes No

If "yes," please state which countries:

Please note that if you are converting your deposit to meet the requirements of the Budapest Treaty, and your deposit has already been released for distribution due to the issuance of a U.S. Patent, you **cannot** restrict it from further distribution.

After a U.S. Patent issues and we are so notified, ATCC makes the culture available to anyone who requests it, as allowed under U.S. Patent and Trademark Office (USPTO) Rules and Regulations (37 CFR 1.808 [a][2]).

11. Notification: ATCC will notify you of your ATCC number after viability of the deposit has been confirmed.

Name of individual to notify: Dr. Shoshan Haran

Fax: 972-8-8600560

Phone: 972-8-8509993

E-mail: shoshan@hazera.com

12. Payment by check or credit card (MasterCard, VISA or American Express) must accompany the deposit unless prior arrangements for billing have been made and approved. ATCC accepts purchase orders for the exact amount.

Money Wire Transfer (\$2,500) by Hazera Genetics Ltd, via the first International Bank of Israel, to Account Number 003933990352, ABA # 052001633 ATCC

Check No. Purchase Order No.

Credit Card number

Please indicate MasterCard, VISA, or American Express:

Exp. Date: Name shown on card: (Please print clearly or type)

Signature of card holder

PAYMENT: ATCC MUST HAVE A BILLING ADDRESS, CONTACT PERSON, PHONE AND FAX FOR ALL DEPOSITS.

Contact Name: Assaf Navot

Billing Address: R&D Division, Mivher, M.P. Lachish darom, 79354, Israel

Phone: 972-8-6878123

Fax: 972-8-6714057

Do you have a current ATCC account number? Yes No

If Yes, ATCC Account Number =

If No: To apply for an account with ATCC, please complete a New Account Application located on our Web site (www.atcc.org) and return it with supporting documentation to ATCC for approval.

13. Name, address, phone and fax number of your Attorney of Record:

Contact Name: Dr. Hedva Schickler

Address: Webb & Associates, Patent Attorney, P. O. Box 2189, Rehovot 76121, Israel

Phone: ++972-8-9484666

Fax: ++972-8-9470860

(Ref: Docket or Case No. HZR/001 PCT)

14. **MUST BE COMPLETED.** Deposited on behalf of: (Verify with your management who owns the deposit. The owner is usually a company or institution, and not an individual.) *Hazera Genetics Ltd.*

I understand and agree that the deposit may not be withdrawn by me for the period specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of deposit or 5 years after the date of the most recent request for the deposit, whichever is longer), and that if a culture should die or be destroyed during the life of the patent, or the period of time so specified, it is my responsibility to replace it with a living culture of the same organism or cell. In the cases of viruses, cell cultures, plasmids, embryos, and seeds, it is my responsibility to supply a sufficient quantity for distribution for the period of time specified above.

Hazera Genetics Ltd.

Dr. Eyal Vardi, Head of R&D Division
Printed Name

D. VARDI
Signature

23/1/03
Date

Address: R&D Division, Mivtachim, M.P. Lachish Darom, 79354, Israel
Phone: 972-8-6878120 Fax: 972-8-6714057
E-mail: vardi@hazera.com

SHIPPING INFORMATION

BEFORE SHIPPING, PLEASE CONTACT THE ATCC PATENT DEPOSITORY FOR SHIPMENT ADVICE

Fax: (703) 365-2745
E-mail: PatentDeposit@atcc.org

SHIPPING NOTICE

The depositor is ultimately responsible for the shipment of deposits to the ATCC and compliance with all applicable government regulations for the packaging and movement of the material. The depositor shall indemnify ATCC, to the extent permitted by law, against claims resulting from the violation of applicable government regulations caused by the depositor's shipment of deposits to the ATCC.

STORAGE & FEES

Storage: Cultures are stored for 30 years from date of deposit or five years after the last request for a sample, whichever is longer, as required under the rules of patent offices in most countries.

Fees: All fees are subject to change. For current fees and other information, check our Web site at www.atcc.org or request a quotation of fees by e-mail at PatentDeposit@atcc.org or fax: (703) 365-2746.

ATCC USE ONLY: ATCC DESIGNATION _____ **REC'D** _____ **V.T. RESULT** _____

ATCC® is a registered trademark of the American Type Culture Collection.

S/N 10/587,789PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Ezri Peleg

Serial No.: 10/587,789

Attorney Docket No.: 27275.005

Filed: March 03, 2008

Title: **HIGH LYCOPENE TOMATO VARIETIES AND
USE THEREOF**

Examiner: Bui, Phuong T

Group Art Unit: 1638

DECLARATION

We the undersigned, Hazera Genetics Ltd., assignee for US Patent Application 10/587,789 do hereby declare that on January 29, 2004 we sent for deposit with ATCC the following seeds:

2500 seeds of *Lycopersicon esculentum* HA3518 designated PTA-5796

This deposit has been made under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

We hereby declare that the seeds will be irrevocably and without restriction or condition released to the public upon issuance of a patent for this application.

Hazera Genetics Ltd.
HAZERA GENETICS LTD

By:

Bui, Phuong T 29/05/2011

Date